REMARKS

Claims 1-11 and 25-36 were presented and examined. In response to the Office Action, Claims 1 and 6 are amended, no claims are added and no claims are cancelled. Claims 12-24 were cancelled previously. Applicant respectfully requests reconsideration of this rejection in view of the amendments and the following remarks.

I. Claims Rejected Under 35 U.S.C. §103

Claims 1, 4, 25, 26, 34, and 36 are rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 6,298,482 issued to Seidman et al. ("Seidman") in view of U.S. Patent Application Publication No. 2002/0087969 issued to Brunheroto et al. ("Brunheroto") and further in view of U.S. Patent No. 6,002,393 issued to Hite et al. ("Hite"). Applicant respectfully traverses this rejection.

Regarding Claim 1, Claim 1 recites:

> 1. A method, comprising:
>
> broadcasting meta-data to one or more client systems, the meta-data including descriptions of a plurality of available for broadcast multi-media data files, from a broadcast server of a service provider system, and a plurality of upcoming multi-media data files, wherein the upcoming multi-media data files are scheduled for an upcoming broadcast to the one or more client systems, as part of a predetermined network broadcast schedule, by a broadcast server of a broadcast service system that is separate from the service provider system;
>
> rating the plurality of available for broadcast multi-media data files and the plurality of upcoming multi-media data files; and
>
> broadcasting, by the broadcast server of the service provider system according to the ratings, at least one multi-media data file selected from the plurality of upcoming data files for selective storage within the one or more client systems, according to respective content rating tables of the one or more client systems, and prior to the upcoming scheduled broadcast of the selected multi-media data file by the broadcast server of the broadcast service system as part of the predetermined network broadcast schedule. (Emphasis added.)

While Applicant's argument here is directed to the cited combination of references, it is necessary to first consider their individual teachings, in order to ascertain what combination (if any) could be made from them.

Seidman discloses a system for two-way digital multi-media broadcast and interactive services. The content provider in the viewer response system, as taught by Seidman, however, is a single content provider having various video and audio streams, which may be concurrently provided from a single server (head end) to a plurality of subscribers connected to the server, as a multiplex for navigation thereof by the subscribers. (*See*, col. 5, lines 3-5.) In contrast with Claim 1, the content provider of Seidman is not both a broadcast service system and a separate service provider. The Examiner cites Brunheroto to rectify the failure of Seidman to teach a broadcast server of a service provider system and ... a broadcast server of a broadcast service system that is separate from the service provider system, as in Claim 1.

According to the Examiner, Brunheroto discloses global tracking unit 107 that is linked to a web server 106 (service provider system) that is separate from the interactive TV content creation 111 and the TV broadcast station 112 (a broadcast server of a broadcast service system) shown in Fig. 1 (see page 3, ¶ 4 of the Office Action mailed August 28, 2009). Brunheroto, however, fails to teach that such web server 106 broadcasts a multi-media data file that is scheduled for broadcast by TV broadcast station 112 as part of a predetermined network broadcast schedule, as in Claim 1. Rather than broadcast a multi-media data file selected from the plurality of upcoming multi-media data files prior to the upcoming scheduled broadcast, by a broadcast server of a broadcast service system as part of the predetermined network broadcast schedule, as in Claim 1, the web server referred to by the Examiner does not broadcast multi-media content. In contrast with Claim 1, the web server of Brunheroto is used to track audience viewing of the interactive content provided to the broadcast station for broadcast via broadcast network 113, which is shown as block 305 in FIG. 3, with tracking server 307 corresponding to web server 106 as shown in FIG. 1. (*See* page 5, ¶ [0074].)

As correctly recognized by the Examiner, Seidman and Brunheroto fail to teach or suggest the broadcasting of at least one upcoming multi-media data file by the broadcast server of the service provider system to the one or more client systems for selective storage therein

according to respective content rating tables of the one or more client systems, and prior to the broadcast of the upcoming data file by the broadcast server of the broadcast service system. (*See*, pg. 4, ¶ 3 of Office Action.) As a result, the Examiner cites Hite, which according to the Examiner, teaches the above-recited feature of Claim 1. (*See*, Hite, col. 12, lines 13-28 28 and 25-28.) We respectfully disagree with the Examiner's assertions and characterizations regarding Hite.

Although Hite indicates that it is possible to pre-store commercials, such that commercials of this implementation are available at the moment needed without concern for the timing on other channels (*see* col. 12, lines 13-27), the pre-stored commercials are not selected from a plurality of upcoming multi-media data files that are scheduled for an upcoming broadcast according to a predetermined network broadcast schedule, as in Claim 1. In contrast with Claim 1, Hite describes a thirty second commercial spot during which Hite teaches that a number of commercials might be broadcast simultaneously over different separate channels. (*See*, col. 4, lines 22-35.) In fact, we submit that such pre-stored commercials are used for situations where time synchronization of several channels of alternate commercials is not possible without causing conflicts with normally scheduled preemptable commercials. (*See* col. 12, lines 21-25.) Hence, although such commercial is broadcast prior to a commercial spot, we submit that such pre-stored commercials are not selected from a plurality of upcoming multi-media data files that are scheduled for an upcoming broadcast as part of a predetermined network broadcast schedule. It is improper for the Examiner to rely on Hite since it cannot be said that a pre-stored commercial of Hite is broadcast prior to the upcoming scheduled broadcast of the pre-stored commercial, by the broadcast server of the broadcast service system as part of the predetermined network broadcast schedule, since such additional broadcast of the pre-stored commercials would be a waste of broadcast bandwidth.

In contrast with Hite, the broadcast server of the service provider system, as in Claim 1, is separate from the broadcast server of the broadcast service system and, hence, may broadcast a multi-media data file selected the plurality of upcoming multi-media data files for selective storage within one or more client systems prior to the scheduled broadcast of that selected multi-media data file, by the broadcast server of the broadcast service system, as part of a predetermined network broadcast schedule, as in Claim 1. As a result, we submit that Hite fails

to teach that a pre-stored commercial would be broadcast prior to the upcoming scheduled broadcast of a selected multi-media data file by the broadcast server of the broadcast service system as part of the predetermined network broadcast schedule, as in Claim 1, since any subsequent broadcast would be a waste of broadcast bandwidth since pre-stored commercials are already contained on a user's set top box. Therefore, Hite teaches that pre-stored commercials are provided to replace scheduled broadcasts of the targeted commercials according to a broadcast schedule. The pre-stored commercials of Hite cannot become part of a predetermined network broadcast schedule, as suggested by the Examiner, because these replacement commercials in fact alter the predetermined broadcast schedule.

Furthermore, the Examiner fails to recognize that the at least one multi-media data file that is selected from the plurality of upcoming multi-media data files is broadcast for selective storage within the one or more client systems, according to respective content rating tables of the one or more client systems. It is improper for the Examiner to rely on Hite since it cannot be said that the content rating tables of Claim 1 would refer to commercials nor would one skilled in the art understand that the broadcasting of upcoming multi-media data files for selective storage within one or more client systems prior to the upcoming scheduled broadcast of the selected multi-media data file would include a commercial as in Hite. Hence, the broadcast of a selected multi-media data file for selective storage within one or more client systems prior to the upcoming scheduled broadcast of the selected multi-media data file would not apply to a commercial spot as suggested by the Examiner since it is indicated by user sentiment against the display of commercial spots a user would most likely not be inclined to rate commercial spots or desire the selective storage of such commercial spots within a client system. We submit that since the consumers of broadcast service systems are generally adverse to spending time watching commercial spots, one of skilled in the art would not be motivated to modify Seidman in view of Brunheroto to teach or suggest the broadcast of a selected multi-media data file for selective storage within one or more client systems prior to the upcoming scheduled broadcast of the selected multi-media data file, by the broadcast server of a broadcast service system, is part of the predetermined broadcast schedule, as in Claim 1.

Hence, no combination of Seidman in view of Brunheroto and further in view of Hite could teach or suggest "broadcasting, by a broadcast server of a service provider system, at least

one multi-media data file, selected the plurality of upcoming multi-media data files, for selective storage within one or more client systems and prior to the upcoming scheduled broadcast of the selected multi-media data file, by the broadcast server of a broadcast service system, as part of the predetermined broadcast schedule," as in Claim 1.

For each of the above reasons, therefore, Claim 1 and all which depend from Claim 1 are patentable over the combination of Seidman in view of Brunheroto and further in view of Hite as well as the references of record. Consequently, Applicant respectfully request that the Examiner reconsider and withdraw the §103 rejection of Claims 1 and 4.

Each of Applicant's other independent claims include features similar to those highlighted above with reference to Claim 1. For example, each of independent Claims 25 and 34 recite "a broadcast by the broadcast server of a service provider system according to ratings, of at least one multi-media data file selected from the plurality of available for broadcast data files for selective storage within the one or more client systems according to respective content rating tables of the one or more client rating tables of the one or more client systems and prior to the upcoming scheduled broadcast of the selected data file, by the broadcast server of the broadcast service system, as part of a predetermined broadcast schedule." Therefore, Claims 25 and 34 are also patentable over the cited prior art combination of Doberstein in view of Monroe as well as the references of record for similar reasons. Consequently, we respectfully request that the Examiner reconsider and withdraw the §103 rejection of Claims 25-26, 34, and 36.

Therefore, Applicants respectfully request that the Examiner reconsider and withdraw the §103 rejection of Claims 1, 25-26, 34 and 36.

Claims 6-8, 28-29, and 35 are rejected under 35 U.S.C. §103(a) as being unpatentable over Seidman in view of Brunheroto and further in view of U.S. Publication No. 2004/0226042 issued to Ellis ("Ellis") and further in view of Hite. Applicants respectfully disagree with the Examiner's assertions and characterizations of the combination of Seidman in view of Brunheroto further in view of Ellis and further in view of Hite, and therefore traverse this rejection.

Each of Applicant's other independent claims includes limitations similar to those in Claim 1 discussed above. For example, independent Claims 6 and 28 recite the receipt of multi-

media data file selected from the plurality of upcoming data files, broadcast by the broadcast server of the service provider system, prior to the scheduled broadcast of the selected multi-media data file, by the broadcast server of the broadcast service system, as part of a predetermined broadcast schedule, which is neither taught nor suggested by the combination of Seidman in view of Brunheroto for at least the reasons described above.

Regarding the Examiner's citing of Ellis, we submit that the Examiner's citing of Ellis fails to rectify the deficiencies of the prior art combination of Seidman in view of Brunheroto to teach or suggest receiving a multi-media data file selected from the plurality of upcoming data files, broadcast by the broadcast server of the service provider system, prior to the scheduled broadcast of the selected multi-media data file, by the broadcast server of the broadcast service system, as part of a predetermined broadcast schedule, as in Claim 6.

Hence, no combination of Seidman in view of Brunhereto and further in view of Ellis could teach or suggest receiving an upcoming data file broadcast by the broadcast server of the service provider system prior to the scheduled broadcast of the upcoming data file by the broadcast server of the broadcast service system as part of a predetermined broadcast schedule, as in Claim 6.

For each of the above reasons, therefore, Claim 6 and all claims which depend from Claim 6, are also patentable over the cited art for similar reasons. Therefore, Applicants respectfully request that the Examiner reconsider and withdraw the §103(a) rejection of Claims 6-8. Independent Claim 28 includes features similar to those highlighted above with regard to Claim 6 and therefore is patentable over the cited combination of references of Seidman in view of Brunhereto and further in view of Ellis for similar reasons. Therefore, Applicants respectfully request that the Examiner reconsider and withdraw the §103(a) rejection of Claims 28-29 and Claim 35, based on this dependency on Claim 34, for at least the reasons described above.

Claims 11 and 33 are rejected under 35 U.S.C. 103(a) as being unpatentable over Seidman in view of Brunheroto and further in view of Ellis and further in view of Hite. **Claim 2** is rejected under 35 U.S.C. 103(a) as being unpatentable over Seidman in view of Brunheroto and further in view of Hite and further in view of U.S. Patent No. 6,611,842 issued to Brown

("Brown"). **Claim 3** is rejected under 35 U.S.C. 103(a) as being unpatentable over Seidman in view of Brunheroto and further in view of Hite, and further in view of Brown, and further in view of U.S. Patent 6,601,237 to Ten Kate et al ("Ten Kate"). **Claim 5** is rejected under 35 U.S.C. 103(a) as being unpatentable over Seidman in view of Brunheroto and further in view of Hite and further in view of U.S. Publication 2002/0112235 of Ballou Jr., et al. ("Ballou"). **Claim 27** is rejected under 35 U.S.C. 103(a) as being unpatentable over Seidman in view of Brunheroto and further in view of Hite and further in view of U.S. Publication No. 2002/0199194 issued to Ali ("Ali"). **Claim 30** is rejected under 35 U.S.C. 103(a) as being unpatentable over Seidman in view of Brunheroto and further in view of Ellis and further in view of U.S. Patent No. 6,490,722 issued to Barton et al. ("Barton"). Finally, **Claims 9-10 and 31-32** are rejected under 35 U.S.C. 103(a) as being unpatentable over Seidman in view of Brunheroto and further in view of Ellis and further in view of Ten Kate and further in view of Ballou. We respectfully traverse these rejections.

DEPENDENT CLAIMS

In view of the above remarks, a specific discussion of the dependent claims is considered to be unnecessary. Therefore, Applicant's silence regarding any dependent claim is not to be interpreted as agreement with, or acquiescence to, the rejection of such claim or as waiving any argument regarding that claim.

CONCLUSION

In view of the foregoing, it is believed that all claims now pending (1) are in proper form, (2) are neither obvious nor anticipated by the relied upon art of record, and (3) are in condition for allowance. A Notice of Allowance is earnestly solicited at the earliest possible date. If the Examiner believes that a telephone conference would be useful in moving the application forward to allowance, the Examiner is encouraged to contact the undersigned at (310) 207-3800.

If necessary, the Commissioner is hereby authorized in this, concurrent and future replies, to charge payment or credit any overpayment to Deposit Account No. 02-2666 for any additional fees required under 37 C.F.R. §§ 1.16 or 1.17, particularly, extension of time fees.

Respectfully submitted,

BLAKELY, SOKOLOFF, TAYLOR, & ZAFMAN LLP

Dated: October 9, 2009

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CERTIFICATE OF TRANSMISSION

I hereby certify that this correspondence is being submitted electronically via EFS Web to the United States Patent and Trademark Office on October 9, 2009.

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Si Vuong